

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DIANE DESHONG, as Power of
Attorney for DOROTHY DUPUIS,

NO. CV-08-124-EFS

Plaintiffs,

ORDER OF DISMISSAL

v.

EXTENDICARE HOMES, INC.,
d/b/a THE GARDENS ON
UNIVERSITY and MARK MICHAELS,

Defendants.

Before the Court, without oral argument, is Plaintiff Diane DeShong's Motion to Non-Suit Without Prejudice. (Ct. Rec. 11.) Plaintiff seeks to dismiss the above-captioned matter without prejudice and takes responsibility for paying Defendants' costs. *Id.* at 2. Defendants were contacted and have no objection to Plaintiff's request.

Federal Rule of Civil Procedure 41(a)(2) permits a district court to dismiss an action at the plaintiff's request "on terms the court considers proper." Such dismissals are ordinarily without prejudice. *Bell v. City of Kellogg*, 922 F.2d 1418, 1421 (9th Cir. 1991). And when dismissals are without prejudice, a defendant's costs are typically assessed against the plaintiff. *See, e.g., Westlands Water Dist. v.*

1 *United States*, 100 F.3d 94, 97-98 (9th Cir. 1996); *Marlow v. Winston &*
2 *Strawn*, 19 F.3d 300, 304 (7th Cir. 1994). Because Plaintiff's motion is
3 unopposed, the Court finds good cause exists to dismiss the action on
4 Plaintiff's terms.

5 Accordingly, **IT IS HEREBY ORDERED:**

6 1. Plaintiff's Motion to Non-Suit Without Prejudice (**Ct. Rec. 11**)
7 is **GRANTED**.

8 2. The Complaint (**Ct. Rec. 1**) is **DISMISSED without prejudice**.

9 3. Plaintiff is responsible for Defendants' costs; each party shall
10 bear their own attorney fees.

11 4. All pending trial and hearing dates are stricken;

12 5. All pending motions are denied as moot; and

13 6. This file shall be closed.

14 **IT IS SO ORDERED.** The District Court Executive is directed to enter
15 this Order and distribute copies to counsel.

16 **DATED** this 10th day of October 2008.

17
18 S/ Edward F. Shea

EDWARD F. SHEA

19 United States District Judge

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